

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,) 2:16-cr-00088-LDD-1
Plaintiff,) Philadelphia, PA
)
V.) April 18, 2016
) 1:53 p.m.- 2:37 p.m.
MOHAMMED JABBATEH,))
Defendant.))

TRANSCRIPT OF DETENTION ARRAIGNMENT
BEFORE THE HONORABLE TIMOTHY R. RICE
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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(DISCLAIMER: Unintelligible dialects and witness too close to microphone noted as "indiscernible")

(Call to the Order of the Court.)

THE COURT: Mr. Jabbateh. Mr. Pagano.

MR. PAGANO: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. PAGANO: May I step back and get my file?

THE COURT: Of course.

MR. WRIGHT: Good afternoon, Your Honor.

THE COURT: Good afternoon. All right. Let's start with the arraignment. Have you had a chance to review the charges with your client?

MR. PAGANO: I have, Your Honor. And we'll waive a formal reading. Enter a plea of not guilty.

THE COURT: All right. We'll have Ms. Settles notify you of the charges, sir.

DEFENDANT ARRAIGNED

THE DEPUTY: Mohammed Jabbateh.

THE DEFENDANT: Yes, ma'am.

THE DEPUTY: You've been charged with Criminal Indictment No. 1688, in violation of 18, U.S.C. Section 1546, fraud in immigration documents. Those are two two counts. And two counts of 18, U.S.C., Section 1621, perjury.

How do you plead; guilty or not guilty?

1 THE DEFENDANT: Not guilty.

2 THE DEPUTY: You may be seated.

3 THE COURT: All right. I'll accept your not guilty
4 plea. Who's our judge, Mr. Wright?

5 MR. WRIGHT: Judge Davis, Legrome Davis.

6 THE COURT: Judge Davis. You have 7 days to file a
7 motion, Mr. Pagano, unless you get an extension.

8 MR. PAGANO: Thank you.

9 THE COURT: All right. The Government's move for
10 detention. This is not a presumption case, correct?

11 MR. WRIGHT: That is correct, Your Honor.

12 THE COURT: All right. How do you want to proceed,
13 Mr. Wright?

14 MR. WRIGHT: I'd like to proceed by way of proffer,
15 Your Honor, if I may?

16 THE COURT: All right. Is that acceptable, Mr.
17 Pagano?

18 MR. PAGANO: Yes, yes.

19 THE COURT: Okay.

20 ARGUMENT BY MR. WRIGHT

21 MR. WRIGHT: Respectfully, Your Honor, Mr. Mohammed
22 Jabbateh, who is also known was Jungle Jabbah, is a native and a
23 citizen of Liberia. He is, in fact, here as a result of being
24 the recipient of asylum status which the Government in fact
25 contends he procured by fraud in 1998, Your Honor. He is, in

1 fact, if he is convicted of the crime against him he faces a
2 maximum penalty of 30 years imprisonment.

3 And I understand that that's not ordinarily what you
4 would get under the guidelines.

5 THE COURT: Yeah. What are the guidelines?

6 MR. WRIGHT: That I don't -- well, with the Court's
7 permission, if I may, Your Honor?

8 THE COURT: I'm sure Mr. Pagano is going to tell me,
9 so.

10 MR. WRIGHT: With the Court's indulgence?

11 THE COURT: Sure. Take your time.

12 MR. WRIGHT: Your Honor, arguably, and these are my
13 guideline calculations. He is a criminal history category 1,
14 with a level 25, which subjects him to 51 to 71 months
15 imprisonment.

16 THE COURT: Okay.

17 MR. WRIGHT: But I suggest to the Court that there
18 have been, although not a lot, but there have been other cases
19 of this nature that have been tried around the country or have
20 been resolved from guilty pleas around the country and that
21 district court judges have not been shy about upward departing
22 and upward variances because of the evidentiary basis for the
23 fraud which often includes allegations that have been proven
24 through -- or either admitted to or proven by witnesses of
25 wartime atrocities.

1 THE COURT: Has he been charged with wartime
2 atrocities?

3 MR. WRIGHT: He has not been charged with wartime
4 atrocities but the underlying facts of the case which prove the
5 perjury and the fraud and immigration documents are replete with
6 wartime atrocities. They, in fact, it consists entirely of
7 wartime atrocities that the Government contends that Mr.
8 Jabbateh either personally committed or ordered.

9 THE COURT: Okay. So at the trial you're going to
10 introduce evidence to prove those atrocities?

11 MR. WRIGHT: That is correct, Your Honor.

12 THE COURT: Okay.

13 MR. WRIGHT: As a matter of fact, I have had the
14 opportunity to go to Liberia on more than one occasion with
15 Special Agent Gillem (ph) and we have interviewed numerous
16 witnesses who we anticipate will be coming to the United States
17 to testify to those wartime atrocities, Your Honor.

18 THE COURT: Okay.

19 MR. WRIGHT: Now with regard to the maximum possible
20 sentence. It's 30 years imprisonment. Now he has the status of
21 a recipient of asylum in this country. There is a very real
22 possibility, on almost a certainty that if he is convicted of
23 perjury and if he is convicted of the fraud immigration
24 documents, that he will be deported. A detainer has been
25 lodged. So there is a very real possibility that regardless of

1 whether he is convicted of the charges that the Government has
2 brought against him and a Grand Jury has determined are more
3 probable than not, there is still a very real possibility that
4 he will be deported, Your Honor.

5 THE COURT: So there's an ICE detainer lodged?

6 MR. WRIGHT: There is an ICE detainer lodged against
7 him. And, Your Honor, I suggest to the Court that in light of
8 that, that if his choices are to remain in the United States and
9 face charges and perhaps face a prison sentence and then
10 deportation that it is likely that he will cut out that second
11 step. And that second step would be --

12 THE COURT: How could he do that if there's an ICE
13 detainer?

14 MR. WRIGHT: Well, what I mean --

15 THE COURT: Let's just assume I would release him
16 today.

17 MR. WRIGHT: Well he'd go -- he'd have an ICE
18 detainer but not taking into account the ICE detainer. Just
19 staying --

20 THE COURT: I see.

21 MR. WRIGHT: -- that if in fact we have to prove by
22 preponderance of the evidence that he's a risk of flight, it is
23 the Government's position that he may well cut out that second
24 step because he would be a free man in the country that he's a
25 citizen of and he has ties in. And we'll talk about those ties

1 in a few moments and it is (indiscernible), Your Honor. And
2 with the Court's permission at this point, I'd also like to
3 adopt the Pretrial Services Report as part of our evidence.

4 THE COURT: Okay.

5 MR. WRIGHT: And we'll get to the ties. And one of
6 the things, Your Honor, that you'll notice about the ties when
7 you get to that section is that he doesn't mention his ties to
8 the continent of Africa. Not necessarily Liberia. They may
9 well be in Liberia but he left out several family members who
10 are residing, it's our understanding, they're still residing on
11 the continent of Africa.

12 Now with regard to the strength of the case. The
13 Government contends that the evidence is strong. We, in fact,
14 have the immigration officers who initially interviewed Mr.
15 Jabbateh. We have the forms that he signed. We have the people
16 who he swore in front of.

17 One of the things that is noticeable with regard to
18 the immigration documents because in the immigration documents
19 he does, in fact, advise the immigration officers that he was a
20 member of a group known as ULIMO and later on ULIMO-K, which was
21 one of the rebel factions that was dying for control of Liberia
22 during Liberia's first Civil War.

23 He admits that but he indicates that during the
24 relevant time period which was 1992 to 1995 or thereabouts that
25 he was assigned to the executive mansion.

1 What he says is that I got trained to the executive
2 mansion, was assigned to the executive mansion in 1992. And
3 then he says in 1995 there was an interim government and I did
4 X, Y, Z. Now very tellingly in that form as the evidence is in
5 fact going to show at trial and it's outlined in the indictment
6 to a certain degree, is that he is very -- that he's silent
7 virtually about 1993, '94, and leading into '95.

8 And the Government contends, Your Honor, that that
9 was the time when he was the commander of the Zebra Battalion
10 which was a ULIMO battalion and later on a ULIMO
11 (indiscernible). May I approach?

12 THE COURT: Yeah, of course. Thanks.

13 MR. WRIGHT: Your Honor, there is a photograph of
14 Mr. Jabbateh when he was the -- a youthful as it says here, a
15 rebel commander. That was taken in 1993 in Tubmanburg, which
16 was a stronghold of ULIMO.

17 THE COURT: This is, what one is him?

18 MR. WRIGHT: He's in the middle, Your Honor. And if
19 you look at him and you look this, matter of fact, if you look
20 at the crease there is in fact that same scar across his
21 forehead, right below his hairline. He doesn't have the
22 dreadlocks anymore. He's put on a few pounds.

23 THE COURT: Haven't we all?

24 MR. WRIGHT: As we all have. And he was, of course,
25 much younger then. He was a youthful commander but that's Mr.

1 Jabbateh.

2 THE COURT: Do you agree, Mr. Pagano?

3 MR. PAGANO: Judge, I agree.

4 THE COURT: Okay.

5 MR. WRIGHT: And, Your Honor, not only is that Mr.
6 Jabbateh but he also admitted to being Jungle Jabbah or being
7 known as Jungle Jabbah. Of course he didn't tell the
8 immigration authorities about what he did as Jungle Jabbah.

9 And I suggest to the Court that the Grand Jury found
10 that it was more probable than not that he either directly
11 participated in or in fact he ordered certain atrocities that
12 are outlined in the indictment and they're also outlined in our
13 detention motion.

14 And if I may approach again, Your Honor?

15 THE COURT: Of course.

16 MR. WRIGHT: Mr. Jabbateh in fact had the honor of
17 having a bridge named after him. And that's "Jungle Jabbah
18 Bridge" as the Court sees but that was something that came about
19 as a result of his activities as a commander of Zebra Battalion
20 during the first Liberian Civil War.

21 THE COURT: Do you have any objection to this, Mr.
22 Pagano?

23 MR. PAGANO: No. I mean, I don't know what the
24 basis is of it but -- and I don't know that it necessarily makes
25 the logical connection that my client somehow was involved with

1 violence and ordering violence but --

2 MR. WRIGHT: If I may, I'd like to make that
3 connection. If I may, Your Honor?

4 THE COURT: I'd be shocked if you didn't.

5 MR. WRIGHT: Now, your Honor, while we were in
6 Liberia we interviewed a number of witnesses, over 30 witnesses,
7 with regard to Jabbateh and most if not all of them identified
8 Mr. Jabbateh and advised of Jungle Jabbah as he was known then
9 participated that they witnessed Jungle Jabbah participate in
10 certain activities that are outlined in the indictment as the
11 underlying evidentiary basis for the perjury and the fraud and
12 the fraud and immigration documents.

13 And one of them in fact and I guess in summary says
14 on order from ULIMO-K rebels, many townspeople accompanied
15 ULIMO-K rebels from the woods back to Kwpop (ph) Town. The K
16 may be silent, Kwpop Town. Over the route back to Kwpop Town a
17 bridge collapsed under the weight of ULIMO-K truck. Several
18 ULIMO-K soldiers were killed during the collapse and the truck
19 capsized in the river below the bridge.

20 The bridge collapse outraged Jungle Jabbah who
21 blamed the villagers, purportedly building a weak bridge.
22 Consequently he punished the villagers by forcing them to
23 assemble in two lines. One of the lines was made up of older
24 and firm villagers while the other was made up of younger and
25 healthier villagers. Jabbateh's men flogged the older villagers

1 while the younger villagers had their arms cut by bayonets. The
2 witness still bears the scars from the event.

3 Jabbateh then ordered the healthier villagers to go
4 to the river and remove the industrial type saw from the truck
5 that capsized in the river when the bridge collapsed. Jabbateh
6 told the villagers that there would be consequences if the saw
7 was not removed. The bridge where this occurred now has a sign
8 identifying it as "Jungle Jabbah Bridge". That is the sign that
9 is depicted in Government Exhibit No. 2.

10 Number 3 with regard to ties to the community. Your
11 Honor, it's unquestionable that Mr. Jabbateh has ties to the
12 community. You can in fact see that by the good ladies and
13 gentlemen who are here today but that's not the only places he
14 has ties.

15 And if the Court, in fact, looks at the Presentence
16 Investigation Report, it talks about the one child who he has
17 with a woman whose been identified as a his fiancé, who's nine
18 months old (sic). And four children with a previous woman who
19 it's the Government's understanding one day he packed up and
20 left. He in fact pays mortgages is our understanding but he
21 left and hasn't been seen very much since then.

22 But beyond that, Your Honor, although he is seen on
23 occasion. But beyond that, Your Honor, he has seven children in
24 the continent of Africa and a wife on the continent of Africa.
25 And he, in fact, advised Special Agent Gillen (ph) upon arrest

1 that he had a wife on the continent of Africa and he doesn't
2 mention her and he doesn't mention the seven children who he has
3 in Africa and over the years he has in fact tried to get those
4 children at least a number of those children a status to come to
5 the United States unsuccessfully.

6 And I suggest to the Court that that's very telling
7 that when he talks about his familial relationships. He's got a
8 wife who we feel, have no reason to believe that he's not
9 married to, have seven children and various ages. So he does in
10 fact have ties to the community. Moreover --

11 THE COURT: What is his status vis-a-vis the current
12 regime in Liberia?

13 MR. WRIGHT: Well, Your Honor, there are a lot of --
14 you know, Liberia is an interesting place and they have a truth
15 and reconciliation commission may in fact have done some good,
16 maybe not. But right now everyone is living together. There
17 are, you know, all of the combatants. The individuals who were
18 armed forces of Liberia who in fact committed atrocities. The
19 National Patriotic Front of Liberia which committed atrocities.
20 ULIMO was split into ULIMO-K and ULIMO-K. ULIMO-K was primarily
21 a (indiscernible) faction which Mr. Jabbateh is in fact -- was a
22 member of and was a battalion member of the commander of the
23 Zebra Battalion of ULIMO-K.

24 They in fact are all living there in Liberia
25 together. Now there is a very large United Nations mission

1 there and there are human peacekeepers that are there but so far
2 so good.

3 THE COURT: Because he's here on asylum meaning --

4 MR. WRIGHT: He's here on asylum from 1998, Your
5 Honor, and we suggest to the Court that of course when he sought
6 asylum he was not honest about his role, number one.

7 And, number two, and not being honest simply, you
8 know, number one, he made affirmative misstatements. And then
9 not only did he make affirmative misstatements on the forms but
10 he made them orally to the asylum officer.

11 And the evidence, Your Honor, and we suggest the
12 Grand Jury has found and total through the evidence that was
13 presented on a balance of probabilities or more probable than
14 not that in fact Mr. Jabbateh would not have gotten status as an
15 asylum, as an aslyia. I don't know if that's correct
16 (indiscernible) or not but as the recipient of asylum. Had he
17 been honest with the immigration officers that we think that --
18 as a matter of fact the immigration officer who made the
19 recommendation is going to testify.

20 THE COURT: Okay.

21 MR. WRIGHT: To suggest that. Now, Your Honor, with
22 regard to -- I saw counsel's submission with regard to equity in
23 homes and I think that's all well and good. And I think it's
24 good that Mr. Jabbateh in fact has community support and that
25 there are individuals who are in fact willing to support Mr.

1 Jabbateh.

2 But I suggest to you, Court, that Mr. Jabbateh is a
3 unique individual because you have to be to be involved in the
4 sort of activities that he was involved in during the first
5 Civil War and what the evidence at least on balance of
6 probabilities in front of the Grand Jury said with regard to
7 that.

8 That, in fact, equity in homes is simply not enough
9 to keep him here if in fact he's facing a substantial prison
10 sentence if he is convicted. Now--

11 THE COURT: I mean he's talking about 12, 13?

12 MR. PAGANO: Your Honor, there's more. They
13 continue to be added to the list. I've gotten emails.
14 Additional people have showed up here today so I think we're up
15 to probably -- the list includes 14. We're up to maybe 17 or
16 18.

17 THE COURT: I mean the issue I have to decide, Mr.
18 Wright, is whether or not Mr. Jabbateh will appear. The issue
19 is risk of flight.

20 MR. WRIGHT: The issue is risk of flight.

21 THE COURT: And so the issues is will 17 properties
22 be a deterrent to him fleeing?

23 MR. WRIGHT: I suggest to the Court that when you've
24 been involved in the sort of activities that the Government
25 believes it can prove that Mr. Jabbateh was involved in and

1 facing a substantial prison sentence upon conviction, that there
2 aren't any properties that would make a whole heck of a lot of
3 difference.

4 I mean the question is, is that how much is your --
5 you know as far as properties are concerned. I don't know how
6 much each one of these properties is worth? I don't know how
7 much equity is in each of these properties but the reality is
8 that if in fact as you get older and I see this now as I get
9 older that every day becomes more important to you.

10 THE COURT: You're not that old yet.

11 MR. WRIGHT: Every day becomes more important to you
12 and I suggest to the Court that property just doesn't do it.
13 You're talking about liberty interest. And you're talking about
14 witnesses who are going to come in and testify about what he did
15 and upon conviction depending on the circumstances what could
16 perhaps be a very long sentence. And we ask ourselves, well,
17 how much is 10 years, 20 years or 30 years of your life worth?

18 THE COURT: Tell me about this case Mr. Pagano cites
19 involving Tom Woewiyu.

20 MR. WRIGHT: Woewiyu? I'm the prosecutor in that
21 case, Your Honor.

22 THE COURT: Oh, good.

23 MR. WRIGHT: And that is in fact a very different
24 circumstance.

25 THE COURT: Yeah, tell me about that.

1 MR. WRIGHT: Tom Woewiyu was the Minister of Defense
2 of the National Patriotic Front of Liberia. His status was very
3 different than Mr. -- his immigration status was very different
4 than Mr. Jabbateh's.

5 Mr. Woewiyu was a legal permanent resident. And he
6 was a legal permanent resident, in fact, before the start of the
7 first Civil War. Now he and the current, purportedly the
8 current president and Charles Taylor found that the national,
9 rebirth of the National Patriotic Front of Liberia.

10 And to a certain degree, despite the fact that he
11 made very real misrepresentations including one which is again
12 very different than Mr. Jabbateh's. Mr. Woewiyu made the
13 representation that he never -- that he -- for instance, that he
14 never either directly or indirectly advocated for the overthrow
15 of government by force or by violence. When there are 50,
16 literally 50 BBC tapes and cables where he's doing just that.
17 Where he's being interviewed on the radio and so on and so
18 forth.

19 But he was a legal permanent resident beforehand.
20 And so that in fact I suggest to the Court is one difference.

21 Number two, he's significantly older than Mr.
22 Jabbateh. That he's been here in fact since the 70s and in fact
23 went to school here. That's in fact a different position.

24 Number three, he's not personally -- he directly or
25 indirectly. He was the Minister of Defense but he wasn't

1 personally, as the evidence will show in this case, out ordering
2 atrocities that individuals under his command, that individuals
3 under his command commit atrocities.

4 And number four, he was initially detained. Then he
5 was ordered release. He didn't actually make the conditions of
6 release. The Government consented to it because of the length
7 of time, because of the nature of the international evidence.
8 The documents here under international evidence (indiscernible)
9 other consideration didn't think that it was appropriate for him
10 to stay in jail because that case has been pending since 2014.
11 That will not be the case here.

12 So this in fact a very different sort of case than
13 the Woewiyu case. The charges are similar in that they both
14 made misrepresentations with regard to what happened during the
15 war but then the similarity -- then there's a real divergent on
16 how that was done and the similarity ends there. We're talking
17 about someone who was the equivalent of a Donald Rumsfeld in the
18 Taylor regime. He was the number two under Taylor.

19 So very different from the individual is depicted in
20 the photograph, that he admits is him, was the battalion leader,
21 was a rebel battalion leader who was out committing atrocities.
22 So there are two -- those are very different.

23 And I will also advise the Court that after the
24 Government -- that we didn't make the conditions that were
25 placed on him. The Government said, okay, amendment the

1 condition so he can get out because of the nature of the
2 evidence and the amount of time it was going to take.

3 (Indiscernible) with regard to that case that the conditions
4 that were put on him are incredibly strict. Even going so far
5 as to how close he can be to reports of ingress and egress here
6 in the Eastern District. Like I said, he's a 70 year old man as
7 opposed to Mr. Jabbateh.

8 And, Your Honor, so I suggest those cases are very
9 different and that's what I proffer the Court with that.

10 THE COURT: All right. Thank you.

11 MR. WRIGHT: I appreciate your patience. Thank you,
12 Your Honor.

13 THE COURT: Sure. Thank you. Mr. Pagano?

14 ARGUMENT BY MR. PAGANO

15 MR. PAGANO: Judge, in terms of the similarities in
16 the cases, I would just note that --

17 THE COURT: You can be seated, sir.

18 MR. PAGANO: That the first, I don't know. I didn't
19 count them but the first seven or six paragraphs of the two
20 indictments are identical. And I've got all the pleadings from
21 Mr. Woewiyu's case and Mr. Wright made the very same arguments.
22 And in terms of these acts of war and atrocities, I quoted the
23 language in my memoranda to the Court and specifically the
24 Government contended or alleges in that indictment -- court's
25 indulgence.

1 "That Mr. Woewiyu conducted a particularly heinous
2 and brutal military campaign. It was characterized by the
3 torture of perceived advisories." My client was one of those
4 advisories at least according to the political history here.
5 "The execution of civilians, the killing of Ecomog, E-C-O-M-O-G
6 peacekeepers, the forced sexual slavery and rape of girls and
7 women, the conscription of child soldiers and the murder of
8 humanitarian aid workers. In particular the NPFL targeted
9 civilians of the Crane and Mandigo which my client is a member,
10 tribes whom the NPFL perceived were loyal to the former Doe
11 government."

12 So the acts of war, the genocide, the allegations
13 that my client was involved in these things are the exact same
14 things that Mr. Woewiyu was alleged to have done and Judge Brody
15 saw fit to release him on \$100,000 bail, secured by two
16 properties.

17 And Your Honor also asked the question who is in
18 power now in Liberia? And to answer that question specifically
19 it's a person by the name of President Ellen Johnson Sirleaf,
20 who was a Charles Taylor supporter. A party that my client was
21 not affiliated with.

22 Judge, my client vehemently denies having
23 participated, encouraged, enticed, ordered or otherwise been a
24 part of any acts of genocide or any acts of crime committed
25 against civilians. There's not a single mention in the

1 indictment of a specific act and counsel's recitation today of
2 what someone would say that people were flogged and cut on the
3 arms and that my client somehow ordered this is again a
4 representation made by who? I don't know. When this was to
5 have occurred? I don't know.

6 But boiling this case down to its elements, Judge,
7 this is a credibility case. Aside from its international
8 intrigue and political backdrop. It's a case that civilians
9 will come in here to testify, I would presume at some point,
10 some day, and the motives for these civilians. I don't know who
11 they're politically aligned with but this was a war about
12 politics.

13 I don't know who these witnesses are loyalists to;
14 Charles Taylor or Doe or Ellen Johnson Sirleaf, who is in power
15 now. But the fact is my client's never been charged in Liberia.
16 My client's never been charged by any tribunal, Your Honor, and
17 he's been here for 20 years almost. I think 18 years.

18 Given all the facts and circumstances. Given his
19 obvious ties to the community. I had about 100 responses from
20 people who wanted to come here today and I told the family to
21 limit those that came to about 25 people because of the size of
22 this courtroom. And we still have I think more than 20 or 30
23 people.

24 I had people sign in. I don't know who showed up
25 after. I circulated the sheet but if I could just read some of

1 the names of people and their relationship to my client, it
2 would give the Court a sense of the ties that he does have here.

3 THE COURT: Okay.

4 MR. PAGANO: The first one, two, three, four persons
5 or six persons, are all friends. The seventh person is his
6 uncle. There are one, two, three, four, five, six additional
7 friends. His brother is here. One, two, three, four more
8 friends. His aunt is also here. His sister is here. His son.
9 The mother of this, this woman that my client allegedly left
10 high and dry in the middle of the night and hasn't been seen
11 since. She is here to support her ex-husband. Some of his
12 children that he had with this woman are also here.

13 And, Judge, there aren't people who are here
14 illegally. These are citizens. These are United States
15 citizens. This former wife of my client is a U.S. citizen. His
16 children are U.S. citizens. There's another friend here.
17 Another four friends here. His brother is here, another
18 brother. His current mother of his 9 month old child.

19 Your Honor, there are multiple ties to the community
20 here and I don't think I who has lived in the city for 49 years
21 could get 14 people to post deeds on my behalf should I be
22 charged with something.

23 THE COURT: How much is the property worth?

24 MR. PAGANO: There are several properties, Judge.
25 My client owns a property, a commercial property, which is a

1 very, very large tract of land in Philadelphia where he operates
2 his business. I did a search of the records in Philadelphia and
3 it looks like that that parcel of land was purchased by my
4 client. The purchase price was \$500,000. He put down \$50,000
5 of his own money and he's been paying the mortgage every month
6 to the person that sold it to him.

7 And this is all laid out in an agreement of sale
8 that I have that I got from the City. And that person that sold
9 the land to my client sent a letter reflecting that my client
10 pays his mortgage on time. That he's an excellent person in the
11 community. That he's got an excellent reputation.

12 So there's that tract of land which is worth -- the
13 purchase price I would say is a fair representation of the fair
14 market value which was \$500,000. He has about I would say about
15 \$200,000 in equity in that property. He owns the home where his
16 former wife and four children live which is here in the City of
17 Philadelphia as well. There's equity of about \$50,000 in that
18 home. Some of the properties that I have here in front of me,
19 the owners of which are here in court.

20 And, Judge, these aren't investment properties.
21 These are properties where these people live. These are
22 properties where these people will lose their homes if this man
23 doesn't show up for court. And obviously these are people who
24 know my client much better than Mr. Wright does, much better
25 than the Government does, and much better than I do. And based

1 upon their knowledge of him, they're willing to put their money
2 where their mouth is and to post these properties.

3 But there's another property here in the City of
4 Philadelphia that is worth approximately \$500,000. It was built
5 by Somalo (ph) Dorley (ph) who's also here in court. He put out
6 \$250,000 of his own money to build this home so I would submit
7 that that property is probably worth -- and we can get bail
8 assessments done by the City of Philadelphia Bail Department
9 which in my past experiences is how the Clerk's Office satisfies
10 the Clerk's requirements on these properties.

11 So, Judge, we have to do an accounting but just
12 preliminarily and I'm not an appraiser and I'm not -- I don't
13 have any expertise in the real estate business but I would say
14 conservatively we probably have close to a million dollars in
15 property here. Maybe a little less because --

16 THE COURT: And your client would be on house
17 arrest?

18 MR. PAGANO: He would be on electronic monitoring,
19 Judge.

20 THE COURT: 24 hours.

21 MR. PAGANO: 24/7.

22 THE COURT: No work?

23 MR. PAGANO: Well, Judge --

24 THE COURT: He's going to stay in the house.

25 MR. PAGANO: He would like to work.

1 THE COURT: I know but that's unlikely if he were
2 released. So he's going to stay in the house 24 hours a day
3 with a bracelet and put up a million dollars in real estate?

4 MR. PAGANO: If that what's the Court is ordering
5 that's what he'll do.

6 THE COURT: You understand that, sir?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You'd be willing to do that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Mr. Wright, how does that
11 not guarantee his appearance?

12 MR. WRIGHT: Your Honor, again, with the likelihood
13 of him getting deported either way, I suggest to the Court that
14 there's not going to be any amount of money that's going to
15 assure his appearance. That when you're looking at the amount
16 of time that he's in fact looking at and almost the certainty of
17 deportation as a result of that and then the very real
18 likelihood with the ICE detainer that he's going to get deported
19 anyway based on the evidence that's going to be presented in
20 front of an immigration judge, it's very, very, unlikely if
21 there's any amount of property or money that's going to assert
22 --

23 THE COURT: Well how's he going to get out of the
24 country with you watching him with him locked up 24 hours a day
25 on a bracelet?

1 MR. WRIGHT: Your Honor, it's not so much -- as the
2 Court understands, it's not so much that -- the problem
3 ordinarily isn't that much getting out of the country. It's
4 getting back in the country without a passport. The reality is
5 is that since he is a recipient of an asylum that if he leaves
6 he can never come back. But the problem isn't him getting
7 across the border somehow. People do that as a matter of course
8 to get across the border. He just can't get back in. That's
9 the bigger problem. The problem isn't leaving. It's ordinarily
10 --

11 THE COURT: Well you still can't get out without a
12 passport.

13 MR. WRIGHT: -- coming back in. Well you're not
14 supposed to be able to get out without a passport but people do
15 it as a matter of course and I suggest to the Court that if
16 anyone has an international -- the international connection to
17 do it is Mr. Jabbateh as we saw in the Presentence -- the
18 Pretrial Services Report. He has a shipping company and what he
19 ships ordinarily goes back to Liberia. And so he has an
20 infrastructure that will allow him, I suggest, to get out of the
21 country if he wants to get out of the country.

22 But in any event sooner or later there's a real
23 likelihood whether convicted or not that he's not going to be
24 here. And I suggest to you that rather than spend time or take
25 the chance of spending a significant amount of time in jail

1 waiting to be deported that he'll cut out that second step.

2 With regard to the similarities between this and
3 Woewiyu, I wrote both indictments. So they are somewhat similar
4 but the first paragraph that counsel is talking are the
5 historical, the historical reflected part, and that doesn't
6 change no matter who the defendant is.

7 As far as the atrocities are concerned, those are
8 atrocities that Mr. Woewiyu is alleged to be directly or
9 indirectly responsible for because he was the equivalent of
10 Rumsfeld. Not that he in fact --

11 THE COURT: Well does that make it better or worse?

12 MR. WRIGHT: Well they're both bad. But I suggest
13 to you that the 70 years old whose been a legal permanent
14 resident since before for -- since the 70s and was educated here
15 and with legal permanent residence here since before the war of
16 the 70s was a much better risk and who had been arguably a
17 statesman in (indiscernible) peace talks with regard to -- and
18 was the representative of the government so it's just very
19 different in that regard.

20 Now we didn't move on risk of -- we didn't move on
21 danger to community but I'll note that --

22 THE COURT: Well you can't.

23 MR. WRIGHT: Well you can't.

24 THE COURT: You can't. There's no legal basis.
25 There's no -- the charges don't involve violence.

1 MR. WRIGHT: If you can prove it, I mean, well --
2 the charges --

3 THE COURT: There's a Third Circuit case Hinler (ph)
4 that says you can't.

5 MR. WRIGHT: Well the evidentiary basis for it
6 arguably involved violent acts. Now that may well be the case.
7 But we didn't move on that ground. We moved on risk of flight.
8 And we moved on risk of flight because I suggest to the Court
9 that even just logically he is a risk of flight. Now I think
10 that it's good --

11 THE COURT: No, I understand he's a risk of flight.
12 I agree with you. The question is, are there conditions that I
13 can impose to guarantee his assurance?

14 MR. WRIGHT: I suggest not. I mean he's an
15 individual who had every opportunity to tell Pretrial Services
16 about his seven sevens kids and his wife to whom we believe he
17 is still married in Liberia and they're conspicuously absent
18 from the Pretrial Services Report and you have to ask yourself
19 why that is in making a determination?

20 I mean he could have said. He could have talked
21 about my son number 1, son number 2, daughter number 3, daughter
22 number 4, the wife, but he didn't do that. And these are people
23 that he in fact tried to get into the country at one point and
24 (indiscernible) alien numbers and those are in fact --

25 THE COURT: Did they ask him about these people?

1 MR. WRIGHT: Pardon?

2 THE COURT: Did they ask him about these people?

3 MR. WRIGHT: Well they asked him about his familial
4 relationships. They asked him about whether and he -- and
5 that's conspicuously absent.

6 THE COURT: Well, I just have to determine whether
7 there's conditions that can reasonably assure his appearance. I
8 can't guarantee his appearance and the law says reasonably
9 assure. I think if I get 17 people to pledge real estate worth
10 a million dollars and put him on 24 hour house arrest where he
11 can't leave with a bracelet that he's going to pay for, it
12 doesn't get any better than that. You have ICE --

13 MR. WRIGHT: There's an ICE detainer on him.

14 THE COURT: And they're all over the border. They
15 run the border.

16 MR. WRIGHT: Well that's correct, Your Honor, and I
17 certainly think that -- I certainly understand and I will
18 certainly say that the Court's position is not unreasonable. I
19 respectfully disagree --

20 THE COURT: No, I understand you do.

21 MR. WRIGHT: -- as the Court is inclined simply
22 because to be involved in the sort of activities that the Grand
23 Jury found that is more probable than not that he was involved
24 in, you're not unused to doing remarkable or bold activities.

25 THE COURT: And I agree with that.

1 MR. WRIGHT: And I -- for these reasons, Your Honor,
2 we suggest to the Court that money doesn't necessarily keep
3 someone here. As a matter of fact as Congress says the risk of
4 -- the ties to the community portion of the Bail Reform Act is
5 something that perhaps isn't taken, isn't viewed as heavily as
6 some of the other forces, Your Honor. And for these reasons we
7 believe that he is a risk of flight and we don't think that
8 he'll appear, Your Honor.

9 COURT'S RULING

10 THE COURT: All right. Thank you. Very good
11 argument, both sides. I appreciate your advocacy and all the
12 effort you both put into this.

13 I'm going to order Mr. Jabbateh released, pending
14 satisfaction of the Clerk's requirements for posting property.
15 And, Mr. Pagano, this is going to be no easy task for you
16 because I think I'm the only magistrate judge that does not
17 allow waiver of those requirements. So you're going to have to
18 dot all the i's and cross all the t's to satisfy Mr. Wright,
19 Pretrial, and me that you have properties that have sufficient
20 value that total a million dollars.

21 MR. PAGANO: I've had to do it twice before, Judge,
22 so --

23 THE COURT: Oh, I know.

24 MR. PAGANO: I have a little bit of experience but
25 it is difficult.

1 THE COURT: I know you have. So he's not going to
2 be released until I'm satisfied of that. And so that means I
3 have to have proof of ownership and proof of sufficient equity.
4 Because normally what happens in these cases you come back to me
5 and say, hey, I only have \$600,000. And some of the owners we
6 can't find or the co-owners are in Africa and we're not going to
7 do that.

8 So you get me a million with people that are
9 verified owners that we can post, 24 hour home detention, cost
10 borne by Mr. Jabbateh, no exceptions. He doesn't leave the
11 premises unless there's a medical emergency. So he's in.

12 MR. PAGANO: Very well. I'll make it work.

13 THE COURT: Are you agreeable to that?

14 MR. WRIGHT: Yes.

15 THE COURT: All right. Any other conditions?

16 MR. WRIGHT: The standard conditions. That he not,
17 that if he inclined to try to obtain a passport that --

18 THE COURT: Oh, yeah. No passport. Who's got his
19 passport?

20 MR. PAGANO: He has no travel documents, Judge, and
21 he's never left the United States since he came here in 1998.

22 THE COURT: Okay.

23 MR. PAGANO: Even when his father died in Liberia he
24 didn't go back.

25 THE COURT: So he can't apply for another passport?

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MR. PAGANO: No.

THE COURT: Can't apply for another passport.

MR. WRIGHT: No. And then the other standard conditions, Your Honor, that Pretrial Services would --

THE COURT: No firearms.

MR. WRIGHT: No firearms.

MR. PAGANO: Of course.

MR. WRIGHT: Commission of crimes, that sort of thing, Your Honor.

THE COURT: Yeah. Let me go over them here. Let's just go over and make sure Mr. Jabbateh understands.

One million dollars bail secured by property of the same value. The Clerk's requirements are not waived. A report is directed to Pretrial Services. Electronic monitoring. He's going to reside at the Melrose Avenue address?

MR. PAGANO: Yes, Your Honor.

THE COURT: 177 Melrose Avenue, Landsdowne. He's restricted at all times. Not allowed to leave for employment. Not allowed to leave for education. Only allowed to leave for a medical treatment and court appearances.

Are you going to be able to confer with him in his home?

MR. PAGANO: If need be.

THE COURT: All right.

1 MR. PAGANO: Better than going to the FDC, Judge.

2 THE COURT: If he verifies with Pretrial Services
3 that there's a medical emergency he can leave or if he has to go
4 court he can leave but he's got to coordinate that with Pretrial
5 Services.

6 MR. WRIGHT: Your Honor if I may? At some point in
7 time the witnesses are going to be known to Mr. Jabbateh.

8 THE COURT: Right.

9 MR. WRIGHT: And so we would ask that the Court also
10 make as a condition that he have no contact directly or
11 indirectly with the witnesses, Your Honor, in this case.

12 THE COURT: All right. When you learn the identity
13 of the witnesses, Mr. Pagano, that your client not have any
14 contact with them directly or indirectly. So you can't have
15 intermediaries; family members. I know it's a small community
16 contact them.

17 MR. PAGANO: Will do.

18 THE COURT: Travel is restricted to this district.
19 Any firearms at the house?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. No firearms.

22 MR. PAGANO: Judge, I would just ask that my
23 investigator be permitted to have contact with witnesses in the
24 event --

25 THE COURT: Oh, of course.

1 MR. PAGANO: -- that that is necessary.

2 THE COURT: Of course. All right. I think that's
3 it. So once you get the properties you can talk to Pretrial and
4 once Mr. Wright and Pretrial are satisfied, let me know and I'll
5 order his release at that point.

6 So you're going to remain in custody, sir, pending
7 proof that all the properties have been posted. And even then
8 there's going to be an ICE detainer.

9 MR. WRIGHT: Right.

10 THE COURT: So then you're going to have to deal
11 with the immigration authorities. We just have some paperwork
12 for you to sign that advise you of the conditions. Hold on one
13 second.

14 Mr. Jabbateh, do you understand all those conditions
15 I just recited?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Do you give me your word
18 that you'll abide by them? Do you agree that you'll follow
19 those conditions?

20 THE DEFENDANT: Yes, sir. Yes, sir.

21 THE COURT: All right. Do you understand that if
22 you fail to do so you're committing a new crime subject to an
23 additional 10 years in prison?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you also understand that your bail

1 will be revoked if you are released and you'll be going back to
2 prison. Do you understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. All right.

5 MR. WRIGHT: Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Wright, Agent, thank you.

7 MR. WRIGHT: Good afternoon, Your Honor.

8 THE COURT: Thanks, Marshals.

9 (Proceeding concluded at 2:37 p.m.)
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CERTIFICATION

I, Erika B. Newton, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Dated: June 2, 2016

A handwritten signature in black ink, appearing to read "Erika B. Newton". The signature is written in a cursive, flowing style.

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